

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Rollins Associates, L.P.)	
	Map 106-03-0, Parcel 20.00)	
	Map 106-07-0 ¹ , Parcel 55.00)	Davidson County
	Commercial Property)	
	Tax Year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

Appeals were filed on behalf of the property owner with the State Board of Equalization on September 13, 2005. The subject properties are presently valued as follows:

Parcel 20.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$566,800	\$686,700	\$1,253,500	\$501,400

Parcel 55.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$239,200	\$585,800	\$825,000	\$330,000

These matters were reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. These matters have been consolidated for the purpose of writing this Initial Decision and Order. The hearings were conducted on May 17, 2007, at the office of the Davidson County Property Assessor. Present at the hearings were Richard Hays, the agent for the appellants; Bart Rollins, Don Rollins, and Charles Hankal Collier, representatives of the taxpayers; and Dean Lewis from the Davidson County Property Assessor's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject properties consist of the following: (a) a multi-level warehouse on 1.52 acres of land located on 1421 Elm Hill Pike that was built in approximately 1979; (b) another warehouse on 1.84 acres of land that was built in approximately 1974 and is located at 1401 Poplar Lane, which is around the corner from the first warehouse. Both properties are located in Nashville, Davidson County, Tennessee.

¹ The application depicts a different map number, however, the County Board Notice reflects this map number.

The taxpayer's agent, Mr. Hays, contends that the property on Elm Hill Pike is worth \$575,000 based on assertion that the subject property is "income producing and is 76% vacant" and that "the revenue derived from the property does not support the current value" by the County. Based on the same rationale, Mr. Hays went on to state that the warehouse on Poplar Lane is worth \$564,800.

Mr. Lewis, from the Assessor's Office, contends that the property should remain as currently valued.

The basis of valuation as stated in T.C.A. § 67-5-601(a), is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981)

There are typically three (3) approaches to estimate the fair market value of property: the sales comparison approach, the cost approach and the income approach.² Since the subject property is a business enterprise the income approach appears to be the most appropriate method of arriving at a valid opinion of fair market value.

The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. Appraisal Institute, The Appraisal of Real Estate 12th ed. 2001, at 597-603.

The administrative judge finds that the fair market value of subject property as of January 1, 2005 is the relevant issue in this case. In the examination of the pro forma income approach data submitted by the taxpayers' agent and the County, I am mindful that this is income-producing property. Therefore, the income approach regarding the determination of value would be the most probable and viable method at arriving at an accurate *value*³ for ad valorem purposes.

In this type of an appeal, the petitioner must show, by a preponderance of the evidence, that an allegation is true or that the issue should be resolved in favor of that party. Uniform Rules of Procedure for Hearing Contested Cases. Rule 1360-4-1-.02 (7).

² The income approach is used for properties that generate or could generate cash flow to the owner. A *Business Enterprise Value Anthology*, David C. Lennhoff, MAI, CRE, Editor, © 2001.

³ Value is the present worth of all the anticipated future benefits to be derived from a property. The benefits, in the form of an income stream or amenities, are those benefits anticipated by the market. Id. @ pp19-35

In this case, the taxpayer has failed to sustain that burden. Based on the presumption of correctness that attaches to the County Board's decision, the values assessed by the Davidson County Board of Equalization stand.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2005:

Parcel 20.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$566,800	\$686,700	\$1,253,500	\$501,400

Parcel 55.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$239,200	\$585,800	\$825,000	\$330,000

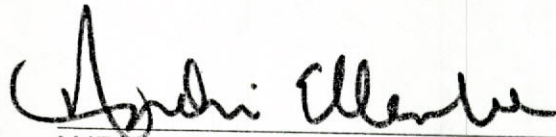
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of November, 2007.

A handwritten signature in black ink, appearing to read "Andrei Ellen Lee", written over a horizontal line.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Rollins Associates, L.P.
Jo Ann North, Property Assessor